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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,658	06/15/2001	John Funk	26372-00001	6965

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EXAMINER

HARRELL, ROBERT B

ART UNIT PAPER NUMBER

2142

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/881,658

Applicant(s)

FUNK ET AL.

Examiner

Robert B. Harrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: see attached Office Action.

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1. Claims 1-36 are presented for examination.
2. The Oath and/or Declaration is defective because the residency of John Funk is missing as is the date of executing the document. A new Oath or Declaration is required in response to this Office Action.
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed
4. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, and clarity of meaning in the Specification, Drawings, and specifically the claims. Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
5. Claims 1-36 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The scope of meaning of the following claim language is not clear:
  - a) "the group"--claim 2 (line 2);
  - b) "the destination"—claim 2 (line 2).
6. As to 5 (a and b) above, these are but a few examples of numerous cases where clear antecedent bases are lacking and not an exhausting recital. Any other term(s) or phrase(s) overlooked by examiner and not listed above which start with either "the" or "said" and do not have a single proper antecedent bases also is indefinite for the reasons outlined in this paragraph. Also, these are but a few examples where term(s) or phrase(s) are introduced more than once without adequate use of either "the" or "said" for the subsequent use of the term(s) or phrase(s). Moreover, multiple introduction of a term, or changes in tense, results in a lack of clear antecedent bases for term(s) or phrase(s) which relied upon the introduced term. Failure to correct all existing cases where clear antecedent bases are lacking can be viewed as non-responsive.
7. Per claims 1, 7, 13, and 25 (each on line 3), claim 19 (line 4), claim 31 (lines 4-5) "one or more attributes" does not provide adequate antecedent bases for "the set of attributes" or "the attributes", within each respective claim, when there is but "one" only and not in the singular as indicated by the plural tense of "attributes" [per the "s"].
8. Per claim 2, the composition of "the set" cannot be clearly ascertained by the phrase "one or more". Specifically, it cannot be clearly ascertained if the claim encompasses a set having only one of the recited attributes, or must contain more than one as suggested by "selected from the group, or all as listed in the claim. Therefore, the composition of

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the set has not been clearly defined by the claim. One factor is, again, "one or more attributes" where "one" encompasses only a single thing and yet "attributes" is in the plural. This resides in all claims either directly or by inheritance.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

**A person shall be entitled to a patent unless -**

**(b) the invention was patented or described in a printed publication in this or foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States;**

10. Claims 1-36 are rejected under 35 U.S.C. 102 (b) as being anticipated by Olaf Kirch Kattreinstr "Linux Network Administrators' Guide, 1993" (to date, such would be publically accessible from: <http://www.cs.indiana.edu/linux/net/nag.html>).

11. The date indicated, in the lower right hand section, on each sheet was the date printed on examiner's printer and not the date of publication as so indicated by the Copyright © 1993 of page 1 under "Legal Notice". This document is well known to have been in its current form more than one year prior to the applicant's critical date (i.e., two years prior to filing of this application).

12. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference (all 144 pages) is cited* and relied upon in this action as part of the substantial evidence of record. Also, the claims provided no temporal order, nor who performed certain of the acts and/or functions.

13. While "CNEWS" has been implemented below, other BBS (Bulletin Board System) mail transports are recalled (e.g., see page 2 of 144 "BBS" in line 2) such as FIDO and the like. While antiquated among the ranks of the dinosaurs, they are nonetheless the forerunners of the ever-popular Internet spawn from ARPA and contribute to the *basic* foundation of this Art. It should be noted that Email and Usenet News are very similar with respect to their headers and routing methods as shown in Olaf (page 125 (third to the last paragraph)); and that Usenet News is also contain electronic messages known as "articles".

14. Per claim 1, and like claim(s) be they mirrored method of system claim(s), Olaf taught (e.g., starting with page 124 (last three lines)) *a method for processing two or*

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**more messages** (newsgroup postings (aka, "articles" (third to the last paragraph on page 125)) **for transmission to one or more recipients** (e.g., "Un\*x users" per page 125 (lines 2-3)), **comprising:**

- a) **identifying a set of one or more attributes** (e.g., "newsgroups" per page 125 (second to the last paragraph) thus "comp.os.linux" was an attribute for an article, among other attributes also found in the header of the article such as locations per the bangpath, message id, dates, times, authors, exc...)) **of the messages** (e.g., see "articles")(e.g., for the sister concept of Usenet News, known as Mail, see last paragraph (second to last line) on page 194 ("attributes" in quotes) and also third to the last paragraph also on page 94 directed to batch files for sending one or more mail message(s));
- b) **establishing a transmission criteria for selecting the messages for transmission based on the attributes of the messages** (e.g., see page 127 (section entitled "Delivering News"), and/or last three lines of that page 132);
- c) **determining the set of attributes for each of the messages** (e.g., see page 131 (last line) to page 133 "Expiring News")(i.e., sys configuration file of page 130 (bottom));
- d) **organizing the messages according to the set of attributes for each of the messages** (e.g., "togo" and/or the individual directories in which the articles are stored locally in /usr/sppol/news per page 127 (line 3));
- e) **storing the organized messages on a shared storage device** (the articles are stored locally in /usr/sppol/news per page 127 (line 3)); and
- f) **selecting the organized messages from the shared storage device for transmission according to the criteria** (e.g., see page 127 "Delivering News" to end of page 127).

15. Per claims 2 and 3, and like claim(s), the claim(s) is(are) drafted as "is selected from the group", therefore "destination" was selected and shown on page 130 with respect to the sys file "moria" and/or the format "mail" per page 131 (line 1).

16. Per claims 4 and 5, and like claim(s), the batched file contained all messages destined to the same destination "site" per page 132 "site" based on "size" and number of articles per page 133 (center "A sample file").

17. Per claim 6, and like claim(s), each batched file was locally stored using the destination's name of the site as part of the file name for the batched file per page 129 with respect to "site" in the sys file.

18. Per claims 7-36, these claims do not teach or defined above the correspondingly rejected claims given above, and are thus rejected for the same reasons given above. However, per claims 7 and 25 and 31, the system would be any Unix based computer (Cnews can be ported to Windows ® and/or Mac ® accordingly and/or any other known Operating System and hardware platform) with the shared storage device being the hard drive (or an equivalent storage) and the operating System and/or executable Cnews binaries being the selector using the configuration files. Per claims 13 and 19, these are mirrored method claims to the defined structure given above and are thus logically equivalents as covered above. Per all other pending claims, they have been addressed

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above and stand rejected for the reasons cited above. Thus, all pending claims are rejected under 35 U.S.C. 102(b) for the reasons set forth above and herein.

19. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (703) 305-9692. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (703) 308-9705. The fax phone number for all papers is (703) 872-9306.

22. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

A handwritten signature in black ink, appearing to read 'R. B. Harrell', is written over a horizontal line.

ROBERT B. HARRELL  
PRIMARY EXAMINER  
GROUP 2142